

OTA QAC Livestock Committee DRAFT Comments to NOSB “Origin of Livestock” Clarification

Good morning, my name is Kelly Shea and I am speaking on behalf of the OTA QAC Livestock committee. On behalf of the Committee --I thank you for the opportunity to comment. I will be speaking at length, three other members of the committee, Chris Ely with Applegate Farms and Albert Straus of Straus Family Creamery, and Matthew Mole of Vermont Organic Fibers have signed up for public comment and listed me as a proxy so our comments could be read in full.

Though I understand it was a glitch, we would like to point out that the origin of livestock recommendation was not posted until August 15, and thus has not followed the NOSB board policy of 60 days for public comment. We recommend that any voting be delayed and we are willing to contribute further with specific language suggestions.

Our comments today deal with the dairy herd replacement clause, health care materials for young stock, as well as the need for specific clarification language surrounding fiber and non-food items produced from livestock.

Some information to begin, (basic as it might be to some of you):

The gestation period for cattle is nine months.

The term “calf” is used to describe baby bovine, regardless of sex.

A female calf is called a heifer until she gives birth for the first time, then she is a “cow.”

Most heifers give birth for the first time at about 24 months of age, then begin to give milk.

As the NOSB has identified, there is a lot of confusion and a lack of clarity in the Rule surrounding the origin of dairy stock. The conflict is in 205.236 (a)(2) and 205.236(a)(2)(iii).

205.236 is the section on Origin of Livestock.

The Rule allows for the conversion of non-organic dairy stock to organic status under 205.236(a)(2)- with a 12-month conversion period. This is consistent with OFPA.

The Rule then appears to require organic management from the last third of gestation for all young dairy stock born on the organic farm 205.236(a)(2)(iii). This has previously been the position only for slaughter stock.

Further confusion is created by this apparent requirement for organic management from last third of gestation specifically being a requirement for those who take advantage of the whole herd conversion clause, (i, ii, and iii being the parts of that clause). The Rule is layered this way: 1) the origin of livestock requirement, 2) an exception for dairy animals, 3) an exception (to the dairy animal exception) for a whole herd transition. The requirement for organic from the last third of gestation is under the whole herd transition exception. Yes, it is very confusing.

Prior to the Final Rule, and development of the OTA's American Organic Standards, (an industry generated standard published in 1999) and hereafter referred to as AOS, certifiers followed OFPA and NOSB recommendations. They clearly differentiated between production stock (those raised for milk, wool, etc) and slaughter stock, as did previous versions of the NOP rule.

Though certifiers varied in their requirements for production (non-slaughter) animals raised on the farm when it came to feed requirements, they generally allowed medications with a designated withdrawal period. Based on NOSB recommendations, antibiotics were prohibited for all slaughter stock to be marketed as organic meat. Therefore, there were medications allowed on young production (non-slaughter) stock that were never allowed on animals to be marketed as organic meat.

The NOSB policies on antibiotics for production stock were modified at the March 16-20, 1998 meeting in Ontario, CA. For more information please see the NOSB website at: <http://www.ams.usda.gov/NOSB/archives/livestock/secretary.html>. At this meeting the NOSB recommendation changed from allowing antibiotics with a 90-day withdrawal period specifically on dairy stock to permitting use only in "production stock" prior to 12 months before organic production. So the NOSB went from dairy specific, to production specific and from 90 days to twelve months prior.

At that meeting the NOSB also reaffirmed its 1994 Santa Fe, New Mexico position on replacement stock by stating, *"Replacement dairy stock must be fed certified organic feeds and raised under organic management practices from the time such stock is brought onto a certified organic farm and for not less than the 12 month period immediately prior to the sale of milk and milk products from such stock."*

Other health care materials were **never** specifically addressed by the NOSB, and certifiers continued to offer different policies for young stock management, but many had made some progress in eliminating the use of most antibiotics for young stock. However, the NOSB policy left the inconsistent standard that was replicated in the Final Rule – allowing the use of non-organic, conventionally managed replacement stock while on farm raised organic stock is held to a higher standard of organic.

In simpler terms, the inconsistency is that the Final Rule requires an organic dairy replacement born on the farm to be under the same organic management practices, for 24 months before it gives milk, as a lactating cow. An organic dairy replacement animal purchased and brought onto the farm would be under those organic management practices for 12 months. It is time to fix this loophole.

A New York organic dairy producer described the problem this way: *"As a dairy producer, in regards to the "origin of livestock" subject, I suggest the following thoughts:*

- 1) A farmer who raises his calves [organically] from the last third of gestation will incur a much greater cost for bring replacement animals into production.*

An average analysis for this is grain costs for 2 years (\$350.00). The cost for milk input up to eight weeks old (700 lbs @ 7cwt x \$20.00 = \$140.00). The cost for roughage using an average of 50 lbs. per day (36,500 lbs over two years or approx. 18 tons @ \$120.00/ton = \$2160.00 per animal for roughage). Total cost to get an animal into production organically would be approximately \$2,650.00 per animal. This does not include mortalities, vet bills, and labor.

- 2) *A farmer who purchases in animals from non-organic sources (and assuming they are purchasing yearling heifers) will have the follow costs: The average cost for the yearling at the sale at today's market price [March '02] is \$800-\$900.00. One year's worth of feed at \$1080.00 for roughage and \$175.00 for grain would make the total cost for a purchased replacement \$2105.00*

You can see it is cheaper for the organic producer to purchase in yearling heifers, which deviates from the organic goal. Furthermore, animals that are purchased have all been treated for worms, viruses, dysentery, etc. which the organically raised heifers did not receive." ENDQUOTE

The farmer then goes on to describe a scenario that could allow a producer, under the direction of a veterinarian, to administer medications to young stock during their first year of life, and not have the animals excluded from organic production. To quote the farmer again, *"My reason being that this would give the person raising the animal organically from the last third of gestation the same leverage that a person purchasing their animals from the outside realms has. Also, this would encourage more people to stay with the organic process rather than purchasing outside animals."* ENDQUOTE

The OTA livestock committee reviewed various pre-NOP certifier requirements for dairy, (submitted as an attachment to this testimony). The requirements ran the gamut from the least stringent (90 days before milk for all animals, whether born on the farm or not) to the most stringent (which was organic from the last third with variances for medications). Producers with animals that never needed to be medicated with a substance prohibited for slaughter stock, had the value added meat market as a reward at the end. The producers who needed to treat an animal were able to keep that calf on the farm and in the herd, though it could never be sold as organic slaughter stock.

Why does it make sense, to treat a one month old calf for a respiratory problem, then have to sell her off the farm and go to the public market to buy another calf (which is "even less organic") and transition that calf for 12 months until it is organic. Why not allow the 1-month-old calf on the farm to be treated with a medication and then transition for 23 months prior to giving organic milk?

The OTA position, as established in AOS, is in support of organic from last third of gestation **with a phase in period designed to allow for review and inclusion of additional health care materials needed for young, non-slaughter stock management.**

This position is not merely a dairy position, as historically certifiers differentiated between animals raised for products such as milk, wool, mohair (including but not limited to cows, goats, sheep, alpaca, llamas) and animals raised for slaughter, which were subject to a stricter prohibition on medications and antibiotics.

The phase in period proposed in AOS was a compromise to allow for transition to total organic management (feed and living conditions) of young stock. At the time, AOS provided four years for producers to acquire the skills necessary to raise their organic stock on the farm the last third of gestation. AOS also placed a limit on the number of conventional replacement animals, to not exceed more than 10% of the milking herd, with the caveat that certifiers had the option of granting variances to this in the case of natural or man made disasters.

The recommendation currently proposed by the NOSB livestock subcommittee wants producers to manage young stock organically immediately, while placing no limits on the amount of non-organic replacement stock that could be brought onto farm. What do you think the result will be? Our committee has spoken with producers across the US who have told us the choice will be simple – **they will sell off their organic young animals and buy in non-organic stock.**

Unfortunately, the NOSB livestock committee’s recommendation of July 11 does not solve the problem. We must recognize two things:

1. This is not a dairy only issue; this is also a non-slaughter stock issue.
2. This is directly tied to the issue of health care materials needed for young production stock.

It will be difficult for producers who have not previously had the requirement for all organic feed from birth to source and pay for organic feed for their young stock. In many parts of the US, organic calf formula and organic calf feed is not available. But we feel, in time, that problem is surmountable. The materials issue is not. We must work together to develop a solution to this vexing problem.

Please realize, that over the last 18 months, during implementation, organic dairy farmers have **NOT** been following a consistent interpretation of the requirements for origin of livestock. They have been waiting to see what the interpretation of the Rule will be. In our research, we found a number of producers, and certifiers, who deduced (according to a literal reading of the Rule) that the requirement for organic management from last third of gestation only applied to those animals transitioned under the new dairy herd clause. If instead of using the herd conversion clause, their cattle were fed with 100% organic feed for the 12-month transition, producers thought that they would be exempt from the requirement to raise their on farm replacements organically “from the last third of gestation”.

CRUCIAL POINT, this was NOT to avoid the cost of organic feed, nor to avoid humane living conditions, it was to be free to care for the health of their young stock as they saw fit, within the bounds of organic philosophy as they saw it.

Another crucial point, in the case of animals that have been treated with materials that will not be allowed after October 21, **producers expect that these animals will be grandfathered in as approved** under the old standards of their now accredited certification agencies. To this point, I remind you, 12 months is clearly in the statute (OFPA), and it has existed and still exists within many certification agencies. Slaughter and non-slaughter has always been differentiated.

As you deliberate these issues, please keep in mind section 205.238(b)(7) in the NOP's Livestock health care practice standard: *It is prohibited to withhold medical treatment from a sick animal in an effort to preserve its organic status*. This is reiterated in OFPA and in every private certifiers standard. It is important to provide a workable solution as soon as possible to aid producers in meeting this humane obligation to not withhold medication from an animal to preserve its organic status, without them needing to uselessly cull young stock (that will not be slaughter stock) from their herds.

It may not be necessary to undertake the daunting and costly task of reviewing medications for young non-slaughter stock. In OFPA, the medicinal practices twelve months prior are not completely and fully delineated. The statute focuses instead on **6509 ANIMAL PRODUCTION PRACTICES AND MATERIALS**.

(c) Practices. For a farm to be certified under this chapter as an organic farm with respect to the livestock produced by such farm, producers on such farm

(3) shall not use growth promoters and hormones on such livestock, whether implanted, ingested, or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of such livestock.

d) Health Care.

(1) Prohibited Practices. For a farm to be certified under this chapter as an organic farm with respect to the livestock produced by such farm, producers on such farm shall not

(A) use subtherapeutic doses of antibiotics;

(B) use synthetic internal parasticides on a routine basis; or

(C) administer medication, other than vaccinations, in the absence of illness.

If it is necessary for TAP reviews to occur only then does OTA support a concerted effort to identify and review needed medications for young stock. We are searching for a mechanism, which would allow uninterrupted business on family farms across this county and overseas. We believe strongly that we must have a clarifying solution before October 21, 2002.

The NOSB livestock committee's draft recommendation back in March of 2002 seemed much closer to identifying and addressing the problem. The recommendation in March recognized that a requirement for organic replacement stock is the desirable goal, but provided some flexibility for commercial availability. It also addressed the biggest problem-- the lack of health care materials for young stock. The recommendation addressed it by proposing a waiver on medications for the first six months of life, which is more consistent with OFPA's 12-month allowance. We must have a clarifying policy statement of the existing Rule so that business is not interrupted.

The positive thing about the NOSB Livestock committee recommendation in March is that it recognized that this is really a health care materials issue for less than one-year old non-slaughter stock. Unfortunately, the current recommendation for clarification dated July 11 is not a compilation and codification of organic dairy farmers' practices, it does not address other non-slaughter production stock, and does not reflect historical certification practices in the United States.

Last Tuesday (September 10th), 16 members of the OTA QAC Livestock subcommittee were present on a conference call, to continue the dialogue and deliberations surrounding this whole issue. We all agreed on two main issues:

- 1) Producers could uphold a requirement for organic dairy and fiber stock to be raised as organic from last third of gestation (as far as living conditions and feed), provided a phase in period is allowed.
- 2) This would be coupled, IF REQUIRED BY LAW, with a concerted effort to add necessary health care materials to the National List specifically for young production animals that would never be sold as slaughter stock—dairy and fiber bearing animals.

OTA supports making this Rule sustainable for farmers, and urges the NOSB and NOP to consider the effect on farmers in making each of its decisions.

Finally, let's keep in mind that the Preamble to the Final Rule, states that the rationale for the last third of gestation was that organic management for breeder and dairy stock **being used as slaughter stock** needed to be consistent with the requirement that slaughter stock be under organic management from the last third of gestation. What was not fully considered, were dairy and fiber animals that would never be slaughtered as organic.

An interpretation, and ergo perhaps a recommendation, might seem to be the following, for non-slaughter stock, during the period between birth and 12 months, there should be an allowance for medications (other than subtherapeutic antibiotics and growth hormones) as OFPA prohibits.

In Conclusion:

We recognize that this is not a **dairy only** issue; this is a non-slaughter stock issue. It is including but not limited to milk and fiber from cattle, goats, llamas, alpacas, sheep, etc. The fiber community was heavily affected by the Final Rule requiring fiber animals (whether destined for the organic meat market or not) to be raised as organic from the last third of gestation. They don't even have a whole herd conversion clause---and they should.

The whole issue is one of health care for young stock that will never be marketed as organic meat. We recognize and appreciate the effort that the NOSB livestock committee has put into the July 11th recommendation, and hope this effort continues in our ongoing dialogue and deliberations to reach a solution. The allowance of non-organic

replacements doesn't solve the on farm medication issues. And remember, basically we are talking about the medicinal needs of less than one year old non-slaughter stock.

We urge NOP to post a clarifying statement on the Policies section of the USDA NOP website, a clarifying statement that delineates the medicinal allowances and the inherent production differences between organically raising slaughter stock and non-slaughter stock. The clarifying statement should incorporate OFPA's allowance for medications on less than one-year-old non-slaughter stock. The policy should point out that this is not a difference in feed or living conditions, but an inherent difference, with precedence, between the health care items allowed when raising animals for slaughter and the health care items allowed when raising animals solely as production stock.